

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HUAWEI TECHNOLOGIES CO. LTD.,

Plaintiff,

v.

**T-MOBILE US, INC. and
T-MOBILE USA, INC.,**

Defendants,

**NOKIA SOLUTIONS AND NETWORKS
US LLC, NOKIA SOLUTIONS AND
NETWORKS OY,
TELEFONAKTIEBOLAGET LM
ERICSSON, and ERICSSON INC.**

Intervenors.

**Civil Action Nos. 2:16-cv-00052-JRG-RSP
2:16-cv-00055-JRG-RSP
2:16-cv-00056-JRG-RSP
2:16-cv-00057-JRG-RSP**

JURY TRIAL DEMANDED

**PLAINTIFF HUAWEI TECHNOLOGIES CO. LTD'S OPPOSED MOTION TO
SUPPLEMENT THE RECORD PURSUANT TO FED. R. CIV. P. 44.1**

During the hearing on August 22, 2017, the Court indicated that it may resolve certain issues of foreign law rather than sending those issues to the jury. In its briefing, Huawei gave the Court excerpts from its foreign law expert, Professor Philippe Stoffel-Munck. [See Case No. 16-cv-00052, Dkt. 257, Ex. 4; Case No. 16-cv-00055, Dkt. 246, Ex. 4; Case No. 16-cv-00056, Dkt. 248, Ex. 4; Case No. 16-cv-00057, Dkt. 242, Ex. 4.] In an effort to avoid burdening the Court with additional papers, Huawei only submitted those pages of the report that it referenced in its pleadings. In hindsight, however, Huawei recognizes that because this is an issue of foreign law that the Court must resolve, it may better assist the Court to have the full legal analysis of Professor Stoffel-Munck at its disposal.

Federal Rule of Civil Procedure 44.1 gives the Court broad authority to consider “any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Federal Rules of Evidence.” Pursuant to Rule 44.1, and if the Court believes the material would be of assistance, Huawei respectfully requests leave to submit the entirety of Professor Stoffel-Munck’s declaration – a declaration of 24 pages, as contrasted with the 11 pages that Huawei submitted with its briefing. The full declaration is attached hereto as Exhibit A. Huawei can also submit the exhibits to the Stoffel-Munck report if it would assist the Court, though at this time Huawei only seeks leave to submit the declaration itself. Huawei notes that T-Mobile has already submitted the entirety of the declaration of its foreign law expert with its briefing. [*See, e.g.*, Case No. 16-cv-00052, Dkt. 282, Ex. 33.]

Dated: August 28, 2017

Respectfully submitted,

By: /s/ David M. Barkan

Ruffin Cordell

Texas Bar No. 04820550

cordell@fr.com

Richard A. Sterba

DC Bar No. 461417

sterba@fr.com

FISH & RICHARDSON P.C.

1425 K Street, N.W., 11th Floor

Washington, D.C. 20005

Telephone: (202) 783-5070

Facsimile: (202) 783-2331

Thomas H. Reger II

Texas Bar No. 24032992

reger@fr.com

Carl E. Bruce

Texas Bar No. 24036278

bruce@fr.com

David B. Conrad

Texas Bar No. 24049042

conrad@fr.com

Jane Du

Texas Bar No. 24076355
du@fr.com
FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
Telephone: (214) 747-5070
Facsimile: (214) 747-2091

David Barkan
California Bar No. 160825
barkan@fr.com
Jonathan J. Lamberson
California Bar No. 239107
lamberson@fr.com
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Kevin Su
Massachusetts Bar No. 663726
su@fr.com
FISH & RICHARDSON P.C.
One Marina Park Drive
Boston, MA 02210
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

**COUNSEL FOR PLAINTIFF HUAWEI
TECHNOLOGIES CO. LTD.**

///

///

///

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h), counsel for movant Huawei Technologies Co. Ltd, contacted counsel for Defendants T-Mobile US, Inc. and T-Mobile USA, Inc., and Intervenor, Nokia Solutions and Networks US LLC, Nokia Solutions and Networks Oy, Telefonaktiebolaget LM Ericsson, and Ericsson Inc., and was informed they oppose Huawei's Opposed Motion to Supplement the Record Pursuant to Fed. R. Civ. P. 44.1.

Dated: August 28, 2017

/s/ David M. Barkan

David M. Barkan

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on August 28, 2017 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ David M. Barkan

David M. Barkan